REMARKS

This Amendment is fully responsive to the non-final Office Action dated August 7, 2008 issued in connection with the above-identified application. Claims 1-21 are pending in the present application. With this Amendment, claims 1, 8, 16-18, 20 and 21 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

In the Office Action, claims 1-21 have been rejected under 35 USC 103(a) as being unpatentable over Majima et al. (U.S. Patent No. 6,979,769, hereafter "Majima") in view of Sakuramoto (U.S. Publication No. 2002/0126992, hereafter "Sakuramoto"). The Applicants have herein amended independent claims 1, 8, 16-18, 20 and 21 to further distinguish the present invention from the cited prior art.

Specifically, independent claim 1 has been amended to point out that the "transmitting side control unit is operable to omit transmission of the content that has been transmitted to the content-receiving apparatus before the transmission of the reproduction control information when it is determined that the reproduction control information indicates that the content has not yet been recorded by the content-receiving apparatus." (Emphasis added).

The features noted above in claim 1 are similarly recited in independent claims 17 and 20 (as amended). Specifically, claim 17 is a content-transmitting method and claim 20 is a content-transmitting program; and both claims 17 and 20 include steps directed to similar features of the transmitting side control unit of claim 1. The features noted above in claims 1, 17 and 20 are fully supported by the Applicants' disclosure (see e.g., ¶ [0090]).

Additionally, independent claim 8 has been amended to point out that the "receiving side control unit is operable to (i) receive data related to the content, ID information related to the content, and reproduction control information related to the content, and (ii) judge whether or not the reproduction control information indicates that the content has not yet been recorded by the content-receiving apparatus." (Emphasis added).

The features noted above in claim 8 are similarly recited in independent claims 16, 18 and 21 (as amended). Specifically, claim 16 is a content transmitting/receiving system including a content-receiving apparatus having similar features of the content-receiving apparatus of claim

8. Claim 18 is a content receiving method and claim 21 is a content-receiving program, and both claims include steps directed to similar features of the content-receiving apparatus of claim 8. The features noted above in claims 8, 16, 18 and 21 are fully supported by the Applicants' disclosure (see e.g., ¶ [0090]).

The Applicants maintain that the cited prior art fails to disclose or suggest at least the following features recited in claims 1, 8, 16-18, 20 and 21:

1) judging or determining whether or not the reproduction control information indicates that the content has not yet been recorded by the content-receiving apparatus.

In the Office Action, although the Examiner relied on the combination of Majima and Sakuramoto for discloses or suggesting all the feature of the present invention, the Examiner relied exclusively on Majima for disclosing the features of the transmitting side control unit and receiving side control unit of the present invention. Specifically, the Examiner relied on col. 3, lines 33-50 and col. 10, lines 4-46 of Majima.

However, Majima at col. 3, lines 33-50 merely discloses that when data is repetitively reproduced, only the time information of the second data is transmitted. Additionally, nothing in Majima at col. 10, lines 4-46 discloses or suggests judging or determining whether or not the reproduction control information indicates that the content has not yet been recorded by the content-receiving apparatus.

Specifically, Majima at col. 10, lines 4-46 only discloses that it is determined whether the received data is MIDI data M or not (S105). If it is determined to be MIDI data (S105 YES), the MIDI data is sorted to the MIDI reproducing section 11 so that a synthesizer sound is created in the MIDI reproducing section 11 (S111). Thus, the use of the reproduction control information in the present invention is clearly different from the use of the MIDI data in Majima. Additionally, Sakuramoto fails to overcome the deficiencies noted above in Majima.

Accordingly, no combination of Majima and Sakuramoto discloses or suggests judging or determining whether or not the reproduction control information indicates that the content has not yet been recorded by the content-receiving apparatus, as recited in independent claims 1, 8, 16-18, 20 and 21. Therefore, independent claims 1, 8, 16-18, 20 and 21 are not anticipated or

rendered obvious by Majima and Sakuramoto (individually or in combination). Likewise, claims 2-7, 9-15 and 19 are not anticipated or rendered obvious by Majima and Sakuramoto by virtue of their respective dependency on independent claims 1, 8 and 17.

Based on the foregoing, the Applicants respectfully request that the Examiner withdraw the rejections presented in the Office Action dated August 7, 2008, and pass the application to issue. The Examiner is invited to contact the undersigned attorney by telephone to resolve any remaining issues.

Respectfully submitted,

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October 31, 2008